

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Allen Dickerson, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2025.

#### CORONAVIRUS

Mr. THUNE. Mr. President, I am hoping that we will be able to pass a COVID relief bill before Christmas. As the leader has said earlier, we don't need to resolve all of our differences to pass a bill. We can pass targeted legislation that focuses on the priorities that we all agree need to be addressed. As the leader pointed out earlier this morning on the floor, Republicans here in the Senate have tried repeatedly, going back to last summer, to move legislation that is targeted, that is fiscally responsible, and that addresses the key needs that are being experienced and the challenges that are being felt by the American people during the pandemic.

In fact, as recently as October, we had a majority of U.S. Senators here on the floor that attempted to get on a bill—a targeted, fiscally responsible bill—that addressed the needs that our small businesses have, with additional funding for the PPP program; that provided an extension for unemployment insurance for people who were unemployed; that provided funding for vaccine distribution; that also provided funding for frontline workers and, I should add, funding for schools and universities. It was a very targeted, fiscally responsible bill. It was voted on here in the Senate not only once but twice.

Both in September and October, we brought a bill to the floor and couldn't even get on it because the Democratic leadership decided to block that bill. So we didn't even have a debate. Not

only could we not get a vote on something that represented a good-faith effort at addressing the key needs that are being felt by the American people as a result of the pandemic, but we couldn't even get on the bill to debate it.

So we are trying yet one more time, and I hope this time we will meet with success because I do believe that we need to pass COVID relief before the end of the year, and I hope Members of the Democratic leadership will decide that they are willing to move forward to meet our country's most critical COVID priorities.

#### REMOTE AND MOBILE WORKER RELIEF ACT OF 2020

Mr. President, on the subject of COVID relief, there is another issue that we should address before the end of the year, and that is tax relief for remote and mobile workers. The complicated tax situation facing mobile workers has been an issue for a while now, but it has been thrown into especially sharp relief by the pandemic.

As everyone knows, medical professionals around the country have traveled to hard-hit areas this year to help hospitals deal with the influx of COVID cases. But what many people don't realize is that these medical professionals, like other mobile workers, are likely to face a complicated tax situation this year as a result. For the majority of Americans, State income tax is fairly uncomplicated. Most Americans work in the same State in which they reside. So there is no question as to which State will be taxing their income.

For mobile workers, however—like traveling nurses or technicians or the medical professionals who responded to COVID in hard-hit areas—the situation is a lot more complicated. Like most Americans, their income is subject to taxation in the State in which their permanent home is located, but any income that they earned in a State other than their State of residence is also subject to taxation in the State in which they earned it.

Now, individuals can generally receive a tax credit in their home State for income tax paid to another State, thus avoiding double taxation of their income. I would add, however, that for States that don't have an income tax—and there are many of those across the country, including my home State of South Dakota—there is no tax credit against income tax paid because there is no income tax paid in the home State.

But mobile workers' income tax situation is extremely complicated, as they generally have to file tax returns in multiple States, and it is made even more complicated by the fact that States have a multitude of different rules governing just when income earned in their State starts to be taxed. Some States give up to a 60-day window before income earned by mobile workers in their State is subject to taxation. Other States start taxing mobile workers immediately.

Navigating different States' requirements can make for a miserable tax season for mobile workers, and it can also be a real burden for their employers. It is particularly challenging for smaller businesses, which frequently lack the in-house tax staff and tracking capabilities of larger organizations.

The situation has long cried out for a solution. For the past four Congresses, I have introduced legislation, the Mobile Workforce State Income Tax Simplification Act, to create a uniform standard for mobile workers. It is a bipartisan bill, and under that bill if you spend 30 days or fewer working in a different State, you would be taxed as normal by your home State. If you spend more than 30 days working in a different State, you would be subject to that other State's income tax in addition to income tax from your home State.

In June of this year, I introduced an updated version of my mobile workforce bill: the Remote and Mobile Worker Relief Act. Like my original mobile workforce bill, the Remote and Mobile Worker Relief Act would create a uniform 30-day standard governing State income tax liability for mobile workers. But my new bill goes further and addresses some of the particular challenges faced by mobile and remote workers as a result of the coronavirus.

The Remote and Mobile Worker Relief Act would establish a special 90-day standard for healthcare workers who travel to another State to help during the pandemic. This should ensure that these workers don't face an expected tax bill for the contributions that they make to fighting the coronavirus.

My new bill also addresses the possible tax complications that could face remote workers as a result of the pandemic. During the coronavirus crisis, many workers who usually travel to their offices every day have ended up working from home. This doesn't present a tax problem for most employees, but it does present a possible problem for workers who live in a different State than the one in which they work.

Under current State law, these workers usually pay most or all of their State income taxes to the State in which they earn this income rather than their State of residence. However, now that some workers who usually work in a different State have been working from home, there is a risk that their State of residence could consider the resulting income as allocated to and taxable by it as well. That could mean a higher tax bill for a lot of workers.

My bill would preempt this problem by codifying the prepandemic status quo. Under my bill, if you planned to work in North Carolina but had to work from home in South Carolina during the pandemic, your income would still be taxed as if you were going in to the office in North Carolina every day, just as it would have been if the pandemic had never happened.

Relief for mobile workers is a bipartisan idea. A version of my original mobile workforce bill has passed the House of Representatives multiple times, and the only reason it hasn't advanced so far in the U.S. Senate is because of the opposition of a handful of States, like New York, that aggressively tax temporary workers.

New York, of course, was the epicenter of the pandemic in the United States early on, and medical professionals from across the country came to New York to work and to help out. Now, one would think that their presence would be an occasion for profound gratitude, but New York Governor Andrew Cuomo apparently also regards them as an opportunity for a tax windfall. That is right. Despite the fact that these workers provided indispensable help to New York in the worst period during the pandemic, in May Governor Cuomo announced that these workers would nevertheless be subject to New York's substantial income tax for the time that they spent working in the State.

It is unconscionable that we would allow healthcare professionals who risked their lives—risked their own lives—to care for individuals in coronavirus-stricken States to be punished with unexpected tax bills. And we need to make sure that Americans who work from home to help slow the spread of the virus don't face a complicated tax situation or an unexpectedly high tax bill as a result.

It would be wonderful to see the Democratic leader who, of course, hails from New York, speak up to endorse remote and mobile worker relief. He should make it clear whether he agrees with Governor Cuomo's decision to cash in on COVID relief workers' assistance or whether he thinks these vital medical professionals should be spared unexpected tax bills.

I really hope that he is not actively standing in the way of my bill in order to protect Governor Cuomo's efforts to boost New York's coffers at healthcare workers' expense. I encourage him to make it clear where he stands on this issue.

I intend to do everything I can to ensure that my bill receives a vote in the Senate before Christmas. Passing this legislation would spare a lot of workers a lot of misery when April comes around.

Americans have been through enough this year. Let's not add unexpected tax bills to the equation.

#### FOOD ALLERGY SAFETY, TREATMENT, EDUCATION, AND RESEARCH ACT OF 2020

Mr. THUNE. Mr. President, as if in legislative session, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 3451 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 3451) to improve the health and safety of Americans living with food allergies and related disorders, including potentially life-threatening anaphylaxis, food protein-induced enterocolitis syndrome, and eosinophilic gastrointestinal diseases, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. THUNE. I ask unanimous consent that the Scott of South Carolina substitute amendment at the desk be agreed to, that the bill, as amended, be considered read a third time and passed, and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2695), in the nature of a substitute, was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Allergy Safety, Treatment, Education, and Research Act of 2020" or the "FASTER Act of 2020".

#### SEC. 2. FOOD ALLERGY SAFETY.

(a) IN GENERAL.—Section 201(qq)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(qq)(1)) is amended by striking "and soybeans" and inserting "soybeans, and sesame".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any food that is introduced or delivered for introduction into interstate commerce on or after January 1, 2023.

#### SEC. 3. REPORT TO CONGRESS.

(a) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

(1) descriptions of ongoing Federal activities related to—

(A) the surveillance and collection of data on the prevalence of food allergies and severity of allergic reactions for specific food or food ingredients, including the identification of any gaps in such activities;

(B) the development of effective food allergy diagnostics;

(C) the prevention of the onset of food allergies;

(D) the reduction of risks related to living with food allergies; and

(E) the development of new therapeutics to prevent, treat, cure, and manage food allergies; and

(2) specific recommendations and strategies to expand, enhance, or improve activities described in paragraph (1), including—

(A) strategies to improve the accuracy of food allergy prevalence data by expanding and intensifying current collection methods, including support for research that includes the identification of biomarkers and tests to validate survey data and the investigation of the use of identified biomarkers and tests in national surveys;

(B) strategies to overcome gaps in surveillance and data collection activities related to food allergies and specific food allergens; and

(C) recommendations for the development and implementation of a regulatory process and framework that would allow for the timely, transparent, and evidence-based modification of the definition of "major food allergen" included in section 201(qq) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(qq)), including with respect to—

(i) the scientific criteria for defining a food or food ingredient as a "major food allergen" pursuant to such process, including recommendations pertaining to evidence of the prevalence and severity of allergic reactions to a food or food ingredient that would be required in order to establish that such food or food ingredient is an allergen of public health concern appropriate for such process; and

(ii) opportunities for stakeholder engagement and comment, as appropriate, in considering any such modification to such definition.

(b) PUBLICATION.—The Secretary shall make the report under subsection (a) available on the internet website of the Department of Health and Human Services.

The bill (S. 3451), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3451

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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